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IN THE

Supreme Court of the United States

October Term, 1959

THE AMERICAN SECURITY COMPANY,

Petitioner,

v.

SHATTERPROOF GLASS CORPORATION,

Respondent.

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

WITH APPENDIX

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THE AMERICAN SECURITY COMPANY, *Petitioner,* v. SHATTERPROOF GLASS CORPORATION, *Respondent.*	No. 440

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Petitioner prays that this Court grant rehearing of its order of November 23, 1959, denying the petition for writ of certiorari, and that a writ of certiorari issue to review the judgment of the Court of Appeals for the Third Circuit in the above-entitled case as prayed for in the petition filed September 30, 1959, herein. The time within which to file this petition was extended to January 15, 1960 by order of Mr. Justice William J. Brennan, Jr.

REASONS FOR GRANTING REHEARING AND ISSUING THE WRIT

The petition for a writ of certiorari showed the decision of the Third Circuit in this case is in direct conflict on the law with decisions of this Court and the Fourth and Seventh Circuit Courts of Appeals, and on the same facts with a

final decision of the Ohio District Court. Since petitioner believed that this Court's Rule 19.1(b) indicated that review of such conflicts would be granted, it limited the issues and points of conflict presented. Petitioner now respectfully presents substantial additional grounds for a rehearing not previously presented. The Appendix annexed to this petition establishes that the conflict affects long-standing licensing practices common to most patent owners, and that the questions involved are of wide general importance.

SUMMARY

1. Petitioner now presents a conflict not previously mentioned between the Third Circuit decision and the Second Circuit in *E. R. Squibb & Sons* v. *Chemical Foundation, Inc.*, 93 F. 2d 475 (1937). By ruling that the "last to expire" clause, standing alone, constitutes *per se* a patent misuse, the Third Circuit has declared invalid thousands of patent licenses which contain this common phrase (45)*.

2. The Ohio Court held that its antitrust decree had not been violated, and the Third Circuit held to the contrary. This conflict is of much greater importance than presented in the original petition. The Wall Street Journal reports that 105 decrees containing compulsory licensing provisions are affected by the rulings. The Appendix hereto (pages A-1 to A-15) shows that hundreds of companies owning thousands of patents are forced to speculate as to which of the conflicting decisions other courts will follow.

3. The Third Circuit's holding that in an infringement action a district court may adjudge a violation of

*References without a letter are to the Third Circuit's opinion in the Appendix to the original petition. References to Appellant's Appendix in the court below are "R. Ia" and to Appellee's Appendix "R. Ib".

another district court's antitrust decree on summary judgment and allow such adjudication as a collateral defense, is not only of great concern to hundreds of companies subject to these 105 compulsory license decrees, but the possible extension of such collateral defenses to other types of litigation may involve many more decrees.

4. Petitioner is bound by the contrary rulings of the Third Circuit and Ohio Court on the same facts, which force petitioner to risk violating one court order if it conforms to the other. Only this Court can settle this conflict, and extricate petitioner from an impossible situation.

5. The Delaware Court, in violation of rules governing summary judgment, made an erroneous finding of fact that there was mandatory package licensing, a conclusion contrary to facts stated within the opinions of both the Delaware and Third Circuit Courts. The Third Circuit's approval of the novel decision that it is *per se* a patent misuse for a patent owner to insist upon a fixed royalty for the privilege of using one or more patents in a group in the same art, and to decline to set separate royalties on individual patents in the group not only jeopardizes the legality of thousands of existing patent licenses, but prevents a voluntary binding agreement for a group royalty.

6. An additional ground for review not previously presented is the Third Circuit's affirmance, without discussion, of the Delaware Court's summary dismissal of counts V and VI of the complaint alleging unfair competition (48). The Delaware Court made the additional novel ruling that the same collateral defenses of patent misuse and violation of the antitrust decree deprived petitioner of its right to maintain a suit for unfair competition relating to the patents (Opinion of Judge Steel, R. 225a).

in spite of the Ohio Court's characterization of Shatterproof as a "wrongdoer" with "unclean hands" (R. 102a).

7. The *per se* rulings not only interfere with long-established licensing practices, but have created an impractical and unworkable rule of law which is actually contrary to the public interest, and has created great concern among patent owners and their counsel.

8. The questions presented do not involve patent validity or infringement, but contract law, patent licensing practices, patent misuse, and antitrust decree administration. The failure of this Court to settle now the conflict between the Third Circuit's novel decision and the decisions of this and other courts will itself create chaos and confusion, may invite treble damage suits and breaches of contract, and breed unnecessary litigation.

ADDITIONAL QUESTIONS PRESENTED ON REHEARING

The conflict with the Second Circuit decision in *E. R. Squibb & Sons* v. *Chemical Foundation, Inc.*, 93 F. 2d 475 (1937), presents the following additional question:

> 1. Does the provision in Securit's patent license which provides that the agreement should "continue in full force and effect to the expiration of the last to expire of any" of the licensed patents constitute *per se* a patent misuse?

The original petition did not raise the following important questions of procedure:

> 2. Was it proper procedure for the Delaware Court to find petitioner guilty of violating the Ohio Court's antitrust decree by summary judgment without a hear-

ing or trial, and then allow the violation as a collateral defense to a charge of infringement?

3. Where an antitrust decree contains the standard provisions for compulsory licensing at a non-discriminatory reasonable royalty which may be fixed by the antitrust court, and the antitrust court has held that the patent owner's licenses granting the privilege of using any, some or all its patents for a fixed royalty do not violate the decree, may a different court hold the patent owner *per se* guilty of violation of the decree by declining to offer a later applicant a lower royalty for a license under less than all the patents?

I

THE CONFLICT BETWEEN THE THIRD CIRCUIT AND THE OHIO COURT WILL CAUSE CONFUSION AND WASTE OF JUDICIAL RESOURCES

(1) The Conflict Places Petitioner in a Vise Between the Two Conflicting Decisions of the Third Circuit and the Ohio Court.

Since the filing of the consent decree on October 30, 1948 petitioner and all of its patents are subject to the continuing jurisdiction of the Ohio District Court. On September 29, 1958 the Ohio Court entered an order finding that "none of petitioner's licensing practices * * * and none of the provisions of its standard license contract violate the Consent Decree" (R. 260a). It ruled specifically that petitioner did not violate the consent decree by advising an applicant it would not license an individual patent for less than the royalty charged for all its patents (R. 259a).

This order construing the decree was a final judgment, appealable only to this Court by direct appeal (15 U. S. C.

Section 29), but the United States did not appeal.* Nor did Shatterproof appeal from the Ohio Court's order of February 6, 1956 denying its application for a new trial (R. 215a-216a). All of the evidence which was before the Delaware Court was before the Ohio Court. The Third Circuit specifically disagreed with the Ohio Court, and ruled that the practices in question did violate the consent decree (39, 46).

Examine the predicament of petitioner. The decision of the Ohio Court is binding upon petitioner throughout the jurisdictional limits of the United States. The decision of the Third Circuit is binding only within the three states of Delaware, Pennsylvania and New Jersey. Unless this Court reviews the Third Circuit decision, the United States is divided into two areas. But which decision should these district courts in the other 47 states follow—the Third Circuit or the Ohio Court?

(2) Effect of this Conflict on Other Parties to the Toledo Decree.

Examine the predicament of the other defendants to the Toledo decree. Judge Kloeb's construction makes this licensing practice lawful for all of them. Is it lawful for them to grant package licenses similar to petitioner's, or must they surrender the benefit of Judge Kloeb's ruling and submit to the Third Circuit's decision?

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*"Where a Court of Appeals decision is in conflict with a decision of the District Court from which an appeal to the Supreme Court, and not to the Court of Appeals, is authorized, certiorari will be granted to the Court of Appeals to resolve the conflict." *Jurisdiction of the Supreme Court of the United States*, pp. 637-38. Robertson, Kirkham, Wolfson & Kurland, Matthew Bender & Co. (1951). See *Hughes v. United States*, 342 U. S. 353 (1952); *United States v. The Liquid Carbonic Corporation*, 121 F. Supp. 141, 123 F. Supp. 653 (E. D. N. Y. 1954), Reversed 350 U. S. 869 (1955).

(3) Effect of this Conflict on Other Parties to Similar Decrees.

Examine the predicament of the defendants in similar antitrust decrees. An analysis of the 105 compulsory licensing decrees listed by the Department of Justice, shows that 80 decrees involving about 200 companies have provisions similar to Section XIV of the Toledo decree* (Appendix hereto, pages A-7 to A-15). The Ohio Court ruled specifically:

> "Sections XIV and XVII of the Consent Decree do not require petitioner to set a royalty on each individual patent subject to said Decree. Petitioner may set a royalty on any, some, or all of its patents, and any dissatisfied applicant may apply to this Court for relief." (R. 259a)

If this Court does not settle this conflict, confusion, utter chaos, and waste of judicial resources will result. This situation confronts not only petitioner, and the other defendants in this particular decree, but also hundreds of companies named in the 80 similar decrees filed in various district courts throughout the country.

II

THE DECISION OF THE THIRD CIRCUIT IS ACTUALLY CONTRARY TO PUBLIC POLICY

The Delaware and Third Circuit Courts ruled, without examining essential facts, that Securit's practice of charging a fixed royalty was *per se* a misuse and "contrary to

*William D. Kilgore, Jr., Chief, Judgments and Judgments Enforcement Section of the Department of Justice Antitrust Division stated there are scores of consent judgments with provisions for reasonable royalties. He stated, "The way of ascertaining the reasonableness of the royalties due in cases of controversy is necessarily somewhat complicated, the consent judgment court being vested with ultimate authority in that respect; . . ." (Proceedings of the Section of Antitrust Law of the American Bar Association, April 1, 1954, page 115.)

public policy" (R. 172a). The Ohio Court which did examine the facts found the public interest had not been violated.

In obedience to the consent decree petitioner granted seven licenses which charged a flat royalty of 2¢ per foot of glass manufactured by the use of any, some, or all of petitioner's patents. The Third Circuit has ruled, contrary to the evidence before it, that it was a patent misuse for petitioner to decline to fix a royalty on each patent (R. 173a), in spite of the Ohio Court's finding:

> "13. After petitioner had granted licenses to the first applicants on all the patents for a royalty of 2¢ per square foot, it would have been very difficult, if not impossible, for it to fix a royalty on each patent at the request of a later applicant in view of the provisions of the Consent Decree prohibiting discrimination among licensees" (R. 257a).

Thus, the Third Circuit is compelling petitioner to do what the Ohio Court considers "very difficult, if not impossible." Is it in the public interest for the Delaware Court to hold that petitioner's refusal to fix a lower royalty for Shatterproof was a misuse when the Ohio Court held to do so would itself violate the non-discrimination provision of the decree?

The courts below ruled that it is *per se* a misuse for a patent owner to insist on charging the same royalty for the use of two patents as for one of them regardless of "the nature of their disclosures, whether for basic inventions or mere minor improvements" (43). The Courts below did not know what the patents covered, and did not care. But the Ohio Court, which had ten years' familiarity with the matter found:

> "12. Petitioner's patents related to a process of tempering glass. Some were basic patents, and

> others were supplementary. It would be very difficult and impractical to determine a royalty for each patent, or to divide the 2¢ royalty among petitioner's patents" (R. 257a).

The ruling is a handicap to most licensees, rather than a benefit. Where a process involves a great many patents, it is impractical if not impossible to accurately apportion the royalty among the patents. The value to a licensee of the right to use patented inventions is purely a question of business economics, not of antitrust law or public policy.

In many cases, if not in most, it is an *advantage* to a licensee to have the *privilege* of using whichever of the inventor's patents he finds useful. In addition, many licenses grant rights to future inventions, whose value is unascertainable at the time a license is executed. Where an owner of a patented process grants licenses freely to all competitors, which is the case here, each licensee *wants* to have the same rights as his competitors. The privilege of having rights to future inventions without increase in royalty is generally considered very valuable. The licensee loses nothing, since he does not pay unless he uses the patent.

III

WHETHER ONE DISTRICT COURT SHOULD BE AUTHORIZED TO ADJUDGE A VIOLATION OF ANOTHER DISTRICT COURT'S DECREE PRESENTS AN IMPORTANT QUESTION OF JUDICIAL ADMINISTRATION WHICH THIS COURT SHOULD DETERMINE

The Third Circuit made two rulings which respect to the Ohio Court's decree. First, it ruled that a violation of that decree could be used as a collateral defense to the suit for infringement. This was a novel principle, without

precedent, and presents an important question which this Court should determine.

The Third Circuit also ruled that the Delaware Court not only had jurisdiction to adjudge a violation of the Ohio Court's decree, but could make a finding contrary to the Ohio Court.

If violation of an antitrust decree is to be accepted as a new ground of defense to a suit for patent infringement, it is imperative that this Court rule whether the question of violation should be determined by the "mother court", as suggested by Judge Kloeb (R. 247a), and as indicated by this Court in *United States Gypsum Co. v. United States*, 352 U. S. 457, 476 (1957).

Where the United States has brought an antitrust suit in the public interest, and has obtained a decree intended to protect that public inerest (whether by consent or after trial is immaterial), is it in the public interest to permit other courts to find a misuse of patents subject to the decree, even though the court directly and *permanently* charged with the responsibility for protecting that same public interest had found to the contrary? The "subject matter" of the Delaware Court's ruling was (1) petitioner's patents, (2) its licensing policy, and (3) the Ohio Court consent decree. Since the Ohio Court is the Court which first acquired jurisdiction of the subject matter, it alone is the one which should construe petitioner's licensing policy and the consent decree, and no other court should interfere with its jurisdiction. See *U. S. v. Aluminum Co. of America*, 19 F. Supp. 374, 20 F. Supp. 608 (W. D. Pa. 1937), 302 U. S. 230 (1937).

On December 13, 1955 the Ohio Court dismissed the petition of the United States to restrain petitioner from continuing this infringement suit against Shatterproof (R. 92a, 214a). In spite of this the Delaware Court has

attacked the affirmative provisions of the consent decree of the Ohio Court and has reversed action taken by that Court by giving a different construction to the consent decree.

To test the importance of this question, assume that the decisions were switched—that the Ohio Court held the decree had been violated, and the Delaware Court that it had not. Would this mean that even though an antitrust court ruled a patent owner had violated its decree, the patent owner could nevertheless maintain infringement suits in other courts which declined to follow the antitrust court's ruling?

Since the subject matter of the defense in the Delaware Court is identical to the subject matter before the Ohio Court and since the Ohio Court first acquired jurisdiction, it alone should be the one to construe that decree in the interest of orderly procedure.

The specific ruling of violation which presents the conflict is of direct concern to parties to 80 decrees. The broader question whether any district court may adjudge a violation of another court's antitrust decree is of even greater importance, as it concerns not only the companies subject to all of the 105 compulsory licensing decrees, but the defendants in all other antitrust decrees, since the principle might be applied to situations other than patent misuse. It is not sound judicial administration to create a rule which breeds conflicting decisions, where uniformity may be assured by having violation of an antitrust decree determined only by the court which entered it.

IV

THE HOLDING OF *PER SE* MISUSE ON SUMMARY JUDGMENT ENDANGERS LONG-ESTABLISHED PRINCIPLES OF CONTRACT LAW GOVERNING PATENT LICENSES

(1) The Ruling Prohibits a Patent Owner From Insisting on Charging a Fixed Royalty for the Privilege of Using Any of a Group of Patents.

The evil of the ruling is its *per se* nature—a revolutionary doctrine—promulgated without consideration of any effect upon public policy. It forbids forever, and under all circumstances, a licensor insisting upon a single royalty for the use of "two or more apparatus or process patents in the same art, whatever the nature of their disclosures, whether for basic inventions or mere minor improvements" (43), regardless of the reasonableness of the royalty. For all practical purposes it even forbids a voluntary agreement to pay a single royalty.

This ruling upsets standard provisions of many patent licenses. An examination of authoritative form books discloses that the provisions of Securit's Standard Form License which were construed as constituting misuse are common in many text books. (See Appendix hereto, pages A-2 to A-7)

There is real danger that the Third Circuit's decision may not only invalidate many patent licenses, and cause great difficulty in negotiating new licenses, but may invite breaches of contract, and stir up unnecessary litigation.

The Third Circuit reached its erroneous conclusion in three steps. First, it jumped to the conclusion that there was mandatory package licensing, contrary to the facts it recited in its own opinion.* Second, it ruled that manda-

*The conclusion of mandatory package licensing was arrived at by violating the rules governing summary judgment. The Third Circuit based its conclusion on a single sentence from a long deposition of

tory package licensing is *per se* a misuse in spite of this Court's ruling in *Transpatent-Wrap Machine Corp.* v. *Stokes & Smith*, 329 U. S. 637 (1947) that complusory tying two patents together is not *per se* illegal.

The third step of the ruling is that granting a license under one patent at the same rate charged for a group is a matter of law mandatory package licensing. This conflicts with *Automatic Radio Mfg. Co.* v. *Hazeltine Research, Inc.*, 339 U. S. 827 (1950) where this Court carefully weighed the reasons and justification of the royalty provision involved in a much broader package license and ruled it was not a *per se* misuse. In so doing, it specifically ruled that the "tie in" principle was not applicable to such a royalty situation.

The practice of package licensing of patents has been studied recently by the legislative branch of the Government. The practice, as such, has not been condemned or found to be in violation of public policy.

A staff report of the Antitrust Subcommittee of the House Committee on the Judiciary stated:

> "The practice of licensing all or a number of an owner's patents in a package has become widespread. It avoids questions of infringement, bookkeeping, and the like. More frequently it has been necessitated by the complexity to which technology has progressed in a particular area." (Antitrust Problems in the Exploitation of Patents, a Staff Report to Subcommittee No. 5, Committee on the Judiciary, H. R. 84th Congress 2nd Session, December 31, 1956, page 14.)

Mr. Robert Ingouf (41), although the Seventh Circuit specifically ruled the use of that same sentence was not justified by the remainder of the deposition. (See Original Petition page 20). Furthermore, the Third Circuit itself conceded Securit had in fact offered to grant Shatterproof a license on less than all its patents. (33) Thus, there was a genuine issue of fact as to Securit's policy demonstrated within the opinion itself. Securit has always conceded its policy was to charge all licensees the same non-discriminatory royalty, but has vigorously denied forcing anyone to take a license on unwanted patents.

Securit's Standard Form License followed the standard forms shown in the Appendix hereto, pages A-2 to A-7. Paragraph 3(b) provided for a royalty for the use of "any" invention included in Schedule A of the agreement (R. 57a). Both the Delaware Court (R. 176a) and the Third Circuit (41 ftnt. 14) acknowledged that by letter to Shatterproof of March 19, 1953 Securit had offered to limit Schedule A "if you wish your licenses restricted to certain specified patents listed in the schedule (which is a complete list of our patents) we are able to meet your wishes" (R. 73a).

The real question here is whether a refusal to grant a lower royalty constitutes, as a matter of law, *compelling* an applicant to accept a license under unwanted patents, even though the licensee (1) pays royalties *only* when a licensed patent is used, (2) may contest the validity of the licensed patents at any time, (3) may cancel the license on thirty days' notice, and (4) has a right to request a United States District Court to grant him the lower royalty.

The rulings below deprive all patent owners of the private right of contract as approved by this Court. If petitioner had granted a lower rate to Shatterproof, *what* lower royalty would be legal, and *who* would determine the issue? Would 1.99999¢ avoid the *per se* misuse ruling? If not, what royalty would? The *per se* ruling eliminates all other facts, circumstances and reasonableness from consideration, and means that the right to determine the royalty rate has shifted from the patent owner to the licensee. It is clear that the *per se* doctrine cannot apply to this situation, as it is neither just nor a workable rule of law.

Support for this contention that the *per se* ruling is unworkable is found in the same staff report which stated:

> "When a group of patents is licensed as a package, it is usually easy to arrive at a royalty rate for the entire package, but major difficulties present

> themselves when a licensee, wishing to pick and choose among the patents in the package demands an adjustment in the royalty." (Antitrust Problems in the Exploitation of Patents, a Staff Report to Subcommittee No. 5, Committee on the Judiciary, H. R. 84th Congress 2nd Session, December 31, 1956, page 15.)

The ruling means that even where licensees have *requested* package licenses, and a patent owner has granted several, he is legally obligated to negotiate a lower royalty with a later applicant who wants less than the package. This endangers all such licenses, because of "most-favored customer" clauses.

This demonstrates that the *per se* ruling not only jeopardizes all existing package licenses *voluntarily* entered into, but precludes new voluntary agreements having any binding effect, because some other applicant may demand less than the package.

(2) The Ruling That the Expiration Clause By Itself Constitutes a Per Se Misuse Conflicts with the Second Circuit.

The Third Circuit decision also raises a serious question with respect to the validity of expiration provisions common to many patent licenses. (See Appendix hereto, pages A-2 to A-7.) The Third Circuit ruled that standing alone "Paragraph 8(a) of Securit's Standard Licensing Agreement which provides that that agreement shall continue 'in full force and effect to the expiration of the last to expire of any' of Securit's patents set out in 'Schedule A' constitutes a patent misuse for it extends the payment of royalties under patents which may expire to the expiration date of that patent most recently granted to Securit" (45).

The Second Circuit held in *E. R. Squibb & Sons* v. *Chemical Foundation, Inc.* 93 F. 2d 475 (1937) that there is a presumption that royalties are not to be paid after the expiration of a patent and that if the intention is to have

them continue longer the parties should phrase the contract in language from which such an intention may fairly be inferred. This holding of the Third Circuit is contrary to the decision in the Squibb case.

The Third Circuit committed error in introducing into its decision a finding of fact not warranted by the evidence, on which the Delaware Court made no inquiry, which was not argued by either side, and which had not constituted an issue in this case.

The Third Circuit misunderstood the clause to which the Delaware Court referred. The Delaware Court referred to Paragraph 7—the clause giving the licensee the right to cancel on thirty days notice (R. 59a). The Third Circuit mistook that for a reference to the "last to expire" clause, and upheld a condemnation that had never occurred.

This finding by the Third Circuit is a procedural error because it has on appeal, raised an issue for the first time and has interpreted a provision in a contract separate and apart from the other provisions of the contract. The Third Circuit proceeded to interpret this provision without affording petitioner an opportunity to be heard.

There is nothing in the record to support the Court's conclusion. The contract is silent as to the payment of royalties on individual expired patents contained in a group of patents covered by the license agreement, but Paragraph 8(a) construed in the light of Paragraph 5 sustains the interpretation that as each patent in Schedule A expires the obligations to pay royalties on that expired patent ceases, whereas the license agreement as to the patents which have not yet expired continues (R. 56a-63a).

This ruling is of a great concern to patent owners throughout the country, as it holds that such a provision constitutes a patent misuse. It creates the danger that many patent licenses may be declared invalid, with no opportunity for the licensors to defend the legality of their licenses.

CONCLUSION

The great importance of these questions to all patent owners and licensees, and to parties to antitrust decrees, is beyond doubt. They are clearly presented on the record now before this Court. If this Court does not review the decision below, there is great likelihood that many cases will come before lower courts involving these same issues, and ultimately this Court will have to settle the conflict. Undoubtedly, a great deal of judicial time and effort will be saved by having this review now.

For the reasons set forth above and in the petition for writ of certiorari, it is respectfully urged that rehearing be granted and that, upon such rehearing, a writ of certiorari issue to the Court of Appeals for the Third Circuit.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the rules of this Court.

JOSEPH W. BURNS
Joseph W. Burns
Attorney for Petitioner

THE WALL STREET JOURNAL,
Tuesday, November 24, 1959

High Court Bars Group Royalties For Patent Use

It Upholds Lower Court Ruling That Fees Must Be Based on Individual Patent

Consent Decree Involved

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON — The Supreme Court left standing a lower court ruling that a patent-owner cannot force a licensee, who wants to use only specific inventions, to pay the royalty rate charged on an entire group of patents.

A patent grants the holder a legal monopoly over a particular invention. There's no law that requires a patent-holder to license his invention for use by others. But if he wants to collect royalties, under the ruling left in effect, he cannot force a licensee, who wants to use only specific inventions, to pay the royalty rate charged on an entire group of patents.

The Third Circuit Court of Appeals decision which the Supreme Court refused to review, held that group, or "package," licensing is a "misuse" of the patent right. The decision is particularly important under the antitrust laws because some 105 court orders now require defendants to license their patents as a result of Government antitrust suits.

Infringement Suit Rejected

The appeals court issued its ruling in rejecting a patent infringement suit brought by American Security Co. against Shatterproof Glass Corp., which used some of American's patented tempered glass processes but refused to pay the package royalty rate. Shatterproof sought to pay lower fees on only the specific patents it wanted to license.

American unsuccessfully urged the Supreme Court to reverse the decision, arguing it "shifts from the patent-owner to the licensee the right to determine the royalty rate for use of a patent."

The Supreme Court action may result in more legal trouble for American. The Court of Appeals ruled American's package licensing violates a 1948 consent decree with the Justice Department under which the glass-maker and other defendants agreed to open their patents for licensing at reasonable royalties.

This interpretation seems to conflict with a ruling by Federal District Judge Kloeb in Ohio, who rejected a Government charge that American is violating the 1948 decree. Without stating their plans, Justice Department officials said they could use the Third Circuit Court of Appeals decision to reopen the case.

The Appeals Court ruled a patent gives the owner monopoly power over the particular invention involved, and no more. "That invention is what the patent grant protects by the monopoly, not that invention plus some embellishment, improvement, or alternate product or process which also happens to be patented," the court declared. "Each monopoly must stand on its own footing."

Patent Used as Lever

"If (a patent-owner) compels a licensee to accept a package of patents or none at all," the court concluded, "he employs one patent as a lever to compel the acceptance of a license under another. Equity will not countenance such a result."

When the Supreme Court refuses to review a decision, the lower court ruling is left in effect for the particular case involved. The High Court may decide to render its own opinion on an issue if it is raised in a later case. When the court agrees to review a ruling, it usually means a substantial Federal question or a conflict among lower court decisions are involved.

Extracts From Standard Texts On Forms of Patent Licenses

In the license forms set forth below, petitioner has underlined the provisions which are similar to Paragraphs 3(b) and 8(a) of Securit's Standard Form License. (R. 57a, 59a).

A. Forms and Their Use in Patent and Trade Mark Practice in the United States and Canada. Hineline , (1951) The Michie Co., Charlotte, Va.

1. The Inventor hereby grants to the Company the non-exclusive right to manufacture, use and sell in the United States and in all the territories and dependencies thereof, devices and methods constructed or operating in accordance with a part or all of the claims contained in the United States Patents aforementioned, and numbered respectively , and , excepting however that this agreement does not include the right to sell or use such apparatus in the following applications:

a. In the control of the concentration of acid during the process of manufacture by the process.

b. In the control of the manufacture of (pp. 140-141)

2. The Company agrees to pay to the Inventor, a royalty of 8% of the sale price on each sale of apparatus when embodying principles depending upon the value or changes in the value of when

a. Applying to the automatic control of industrial processes.

b. Employing the principle of 'before and after treatment' referred to in Patent No. and

specifically in Claims and of said patent.

c. Employing a temperature compensating device consisting of

d. Diluting or mixing other ingredients with the material under test for the purpose of

3. It is understood and agreed that in determining the amount of each sale the selling price of all elements sold by the Company in each sale and necessary for the apparatus to function in accordance with the stipulation under Clause 2 above shall be included in the sale price.

6. This agreement shall remain in force during the life of any and all of the patents aforementioned, unless terminated by the Inventor as provided in the following clause.

B. Gordon's Modern Annotated Forms of Agreement. Saul Gordon, Prentice Hall, (1940)

Whereas, the Licensor is the owner of or has the right to grant licenses under certain letters patent of the United States enumerated in "Schedule A" hereto attached, and hereby made a part hereof (herein called the "Licensed Patents") and

1. The Licensor hereby grants to the Licensee, and the Licensee hereby accepts from the Licensor, upon the terms and conditions hereinafter specified, a non-exclusive and, (except as hereinafter provided) non-assignable license to make, use and sell throughout the United States, its territories and dependencies New Process Sewage Tank (herein called the Licensed Product) under the Licensed Patents, to the full end of the terms for which the Licensed Patents are issued, unless sooner terminated as hereinafter provided.

(p. 72)

8. For the rights and privileges granted under the license, the Licensee will pay to the Licensor, in the manner hereinafter provided, to the end of the terms of the Licensed Patents or until this license is otherwise terminated, cancelled or terminated as hereinafter provided, a royalty (subject to revision as hereinabove provided) at the rate set forth in 'Schedule B' hereto annexed, and hereby made a part hereof. (p. 731)

C. Walker on Patents. Deller's Edition. Baker, Voorhis & Co., (1937).

1. The Licensor has granted, conveyed, and by these presents does grant and convey unto the Licensee the exclusive right and license to manufacture, sell and use apparatus embodying, employing and containing the inventions patented in the Letters Patent throughout the United States and its territories, to the full end of the term or terms for which said Letters Patent have been or may be granted, and any reissue or reissues thereof, unless this agreement is sooner terminated, as hereinafter provided. (p. 1515)

3. The Licensee covenants and agrees to pay to the Licensor, commencing 19 . . and thereafter during the continuance of this agreement, royalties on apparatus embodying and containing the said inventions, manufactured, sold and used by the Licensee, computed in the following manner: A sum based on a sliding scale, decreasing in accordance with the increased volume of sales of the Licensee, during any fiscal year, in accordance with the schedule hereinafter set forth, to wit:

No. of	Royalty	Minimum Royalty
Under 1,000,000	Seven cents per hundred	$ 500.
Over 1,000,000	Six cents per hundred	600.
Over 2,000,000	Five cents per hundred	1,000.
Over 3,000,000	Four cents per hundred	1,200.
Over 4,000,000	Three cents per hundred	1,200. (p. 1515)

10. It is covenanted and agreed that this agreement shall continue during the lives of the aforesaid United States Letters Patent, but that the Licensee shall have the right at any time, upon two (2) years notice in writing delivered to the Licensor by the Licensee, at his last known address (and that for that purpose, mailing of notice under registered mail shall be deemed sufficient), to terminate the said agreement, and at the expiration of the said two years from the date of such delivery of said notice, this agreement shall cease and terminate, for reasons stated in paragraph "9" hereof, or if the patents have become of no value to the Licensee in view of other patents or other improvements in the [redacted] industry and become null and void and of no effect and any and all rights which the Licensee shall have or possess under this agreement shall be by it relinquished, and surrendered to the Licensor; except that the Licensee shall have the right to sell all the apparatus already manufactured embodying said inventions, upon which royalties will be paid as aforesaid (p. 1517).

D. Modern Legal Forms. Belsheim. West Publishing Co. (1958)

"All the Chapters have been completely revised to conform to current statutory requirements and to reflect the current style of legal draftsmanship. Those forms which have stood the test of time have been retained without material alteration. However, those instruments that have become obsolete due to changes in the law and business customs have been eliminated. Duplication has been taken by a substantial number of new forms carefully selected to guide the lawyer in his everyday practice." (Preface to III.)

Whereas, I [redacted] by [redacted] all right, title and interest in and to certain inventions in Portable Light De-

vices and associated devices and in and to the United States and Canadian Letters Patent identified in the list of said patents hereto attached marked "Exhibit A" and by reference made a part hereof, said inventions and Letters Patent being hereinafter for convenience referred to collectively as International Patents; First Party's said right, title and interest being subject however to a certain restricted grant to Manufacturing Company as fully set forth in an agreement, a true copy of which is hereto attached marked "Exhibit B", and by reference made a part hereof, and

FIRST: First Party hereby grants to Second Party the exclusive right to manufacture and sell Dirigible Light Devices and parts thereof embodying said inventions, subject to the agreement above referred to as "Exhibit B" attached hereto and made a part hereof.

THIRD: The term of the grant hereinabove given in section First, unless sooner terminated as hereinafter provided for, shall extend to the end of the life of the last of the patents coming within the provisions of this agreement.

SIXTH: Second Party agrees to pay to First Party and First Party agrees to accept, as royalties on all Dirigible Light Devices which embody any invention or inventions disclosed and claimed in said International patents and other patents which may come within the provisions of this agreement is herein provided, or any of them, made and sold by Second Party during the life of the manufacturing and selling rights hereby granted to it at the rate of three per cent (3%) of the net amount received by Second Party for said Dirigible Light Devices and associated devices and or parts of such devices which are sold along with said Dirigible Light Devices, and on all such

associated devices and or parts which are sold by Second Party without said Dirigible Light Devices as repair and replacement parts for such Dirigible Light Devices, said net amount upon which royalties shall be computed shall be the invoice price of the goods less actual salesmen's commissions paid by the Second Party, which deducted commissions shall not be more than ten per cent (10%) of the invoice price of such merchandise, less discounts allowed for cash payments on such invoices, less Federal and or State excise tax levied against such goods, and less freight, prepaid or allowed, on the shipment of such goods (section 6002.1 pp. 255-256).

LIST OF ANTITRUST DECREES REQUIRING PATENT LICENSING AT REASONABLE ROYALTIES (1941 to 1959)

The Department of Justice advised petitioner's counsel on December 9, 1959: "From 1941 to January 1, 1959 there were 105 judgments filed in civil antitrust cases brought by this Department in which patent relief has been obtained, the relief being generally in the form of a requirement that the defendants concerned license certain patents for use in particular fields."

Petitioner's counsel have examined most of those decrees, and all of the antitrust decrees listed below provide for compulsory licensing at reasonable royalties, and authorize any applicant to apply to the district court for determination of the reasonable royalty. The list shows (1) the name of the case, and all corporate defendants, (2) the name of the court, (3) action No., (4) date of entry of the decree, (5) the product or process covered by the decree, and (6) the section of decree relating to patent licensing. All decrees were entered by consent, except when marked "(litigated)".

1. U.S. v. Whitehead Brothers Company (S.D. N.Y. No. 17-99; 1/7/42)
   Bentonite (Sec. 3).

2. U.S. v. Standard Oil Company of New Jersey (D. N.J. No. 2091; 3/25/42)
   Standard Oil Development Company
   Standard Oil Company of Louisiana
   Standard Catalytic Co.
   Jasco, Inc.
   Hydro Engineering & Chemical Co.
   Petroleum and petroleum products (Sec. IV).

3. U.S. v. General Electric Company (D. N.J. No. 1364; 4/10/42)
   Westinghouse Electric and Manufacturing Co.
   Lamps, lamp parts, lamp machinery (Sec. IV).

4. U.S. v. Aluminum Company of America (S.D. N.Y. No. 18-31; 4/15/42)
   The Dow Chemical Co.
   American Magnesium Corp.
   Magnesium Development Corp.
   Magnesium and magnesium products (Sec. V and VI).

5. U.S. v. American Bosch Corporation (S.D. N.Y. No. 20-164; 12/29/42)
   Diesel fuel injection equipment (Sec. IV).

6. U.S. v. National Lead Co. (S.D. N.Y. No. 26-258; 10/11/45) (Lit.)
   Titan Co., Inc.
   E. I. du Pont de Nemours and Co.
   Titanium pigments (Sec. 7).

7. U.S. v. Bendix Aviation Corp. (D. N.J. No. 2531; 2/13/46)
   Aircraft and marine instruments, devices, accessories, etc. (Sec. V).

8. U.S. v. General Electric Co. (D. N.J. Nos. 1364 and 2590; 3/7/46)
   Corning Glass Works
   Glass bulbs, tubing, cane, glass machinery and lamps (Sec. VI, VII and VIII).

9. U.S. v. The Diamond Match Company (S.D. N.Y. No. 25-397; 4/9/46)
   Berst-Forster-Dixfield Co.
   The Swedish Match Co.
   Matches, match machinery and match chemicals (Sec. 10, 12, 13 and 14).

10. U.S. v. Vehicular Parking, Ltd. (D. of Del. No. 259; 5/6/46 amended 7/16/53) (Lit.)
    The Karpark Corp.
    Dual Parking Meter Co.
    M. H. Rhodes, Inc.
    The Standard Meter Corp.

Peerless Oil and Gas Co.
Duncan Meter Co.
Parking meters (Sec. 2).

11. U.S. v. Libbey-Owens-Ford Glass Co. (N.D. of Ohio W.D. No. 5239; 9/5/46)
Corning Glass Works
Flat glass, plate glass, window glass, safety glass, sheet glass (Sec. VI).

12. U.S. v. American Air Filter Corp., Inc. (W.D. Ky. No. 574; 9/10/46)
Metal Textile Corp.
Filters and filter apparatus (Sec. IV).

13. U.S. v. Owens-Illinois Glass Co. (N.D. of Cal. S.D. No. 25861-C; 9/18/46)
Glass containers and closures and vacuum packing and vacuum-closing machinery (Sec. V).

14. U.S. v. American Lecithin Co. (N.D. of Ohio E.D. No. 24115; 2/17/47)
Lecithin (Sec. IV).

15. U.S. v. Hartford-Empire Co. (N.D. of Ohio W.D. No. 4426; 5/23/47) (Lit.)
Corning Glass Works
Owens-Illinois Glass Co.
Hazel-Atlas Glass Co.
Thatcher Manufacturing Co.
Lynch Corp.
Ball Bros.
Glass containers, feeders, forming machines, suction machines, lehrs, and stackers (Sec. 13).

16. U.S. v. Patent Button Company (D. of Conn. No. 1854; 6/26/47)
Fasteners, fastening machinery (Sec. V).

17. U.S. v. Timken-Detroit Axle Co. (E.D. Mich. S.D. No. 5642; 8/14/47)
Multiwheel units (Sec. IV).

18. U.S. v. American Locomotive Co. (N.D. Ind. T.H.D. No. 545; 10/4/47)
Universal Railway Devices Corp.
Spring plates (Sec. IX).

19. U.S. v. The Electric Storage Battery Co. (S.D. N.Y. No. 31-225; 11/24/47)
Willard Storage Battery Co.
Electric storage batteries, parts and accessories (Sec. VI).

20. U.S. v. Scovil Manufacturing Company (D. Conn. No. 1853; 2/17/48)
Fastening machinery and fasteners (Sec. V).

21. U.S. v. Automatic Sprinkler Co. of America (N.D. Ill. E.D. No. 46C1289; 2/20/48)
Automatic Sprinkler Corporation of America
Rate of rise devices and systems (Sec. IV).

22. U.S. v. The Gamewell Co. (D. Mass. No. 6150; 3/22/48)
Fire alarm systems (Sec. X).

23. U.S. v. Universal Button Fastening and Button Co. (E.D. Mich. S.D. No. 5860; 5/7/48)
Fastening machinery and fasteners (Sec. V).

24. U.S. v. White Cap Co. (N.D. Ill. E.D. No. 46c891; 6/17/48)
Closures and sealing machinery and accessories for applying closures to glass jars and containers (Sec. V).

25. U.S. v. General Cable Corporation (S.D. N.Y. No. 40-76; 8/25/48)
General Electric Co.
The Okonite-Callender Cable Company, Inc.
Phelps Dodge Copper Products Corp.
Fluid filled cables or accessories (Sec. VI).

26. U.S. v. American Optical Company (S.D. N.Y. No. 10-391; 9/17/48)
Ophthalmic goods (Sec. VI).

27. U.S. v. Line Material Company (E.D. Wis. No. 1096; 10/19/48)
Southern States Equipment Corp.
Fuse cutouts and drop-out fuse cutouts (Sec. V).

28. U.S. v. Allegheny Ludlum Steel Corp. (D. N.J. No. 4583; 10/25/48)
The Carpenter Steel Company
Stainless steel and stainless steel products (Sec. V).

29. U.S. v. Libbey-Owens-Ford Glass Company (N.D. Ohio W.D. No. 5239; 10/30/48)
Pittsburgh Plate Glass Co.
American Window Glass Co.
Fourco Glass Co.
Franklin Glass Corp.
Rolland Glass Co.
American Securit Co.
Blue Ridge Glass Corp.
Flat glass (Sec. X, XIII and XIV).

30. U.S. v. Technicolor, Inc. (S.D. Cal. C.D. No. 7507-WM; 11/24/48)
Eastman Kodak Co.
Color motion picture prints (Sec. IV and V).

31. U.S. v. Bendix Aviation Corp. (S.D. N.Y. No. 44-284; 12/22/48)
Westinghouse Air Brake Company

Braking systems (Sec. V and VI).

32. U.S. v. Scophony Corp. of America (S.D. N.Y. No. 34-184; 1/12/49)

Products, apparatus of installations for or relating to television (Sec. VI).

33. U.S. v. Phillips Screw Co. (N.D. Ill. E.D. No. 47C147; 3/28/49)
American Screw Co.

Screws and bolts (Sec. VII).

34. U.S. v. Owens-Corning Fiberglass Corp. (N.D. Ohio W.D. No 5778; 6/23/49)

Glass fibers, glass fiber products and any material, process, method or machinery used in the production or manufacture thereof (Sec. VI and VII).

35. U.S. v. General Electric Co. (S.D. Cal. C.D. No. 7899-M; 11/4/49)
Westinghouse Electric Corp.
Delta Star Electric Co.
Electrical Engineers Equipment Co.
Railway and Industrial Engineering Co.
A. B. Chance Co., Inc.
Cole Electric Company
Hi-Voltage Equipment Co.
Pacific Electric Manufacturing Corp.
Southern States Equipment Corp.

Disconnecting switches and ground switches (Sec. VII).

36. U.S. v. The Standard Register Co. (D. D.C. No. 36040; 12/13/49)

Platens and auxiliary equipment (Sec. VI).

37. U.S. v. Technicolor, Inc. (S.D. Cal. C.D. No. 7507-WM; 2/28/50)

Color motion picture prints (Sec. IV).

38. U.S. v. American Can Co. (N.D. Cal. S.D. No. 26345-H; 6/22/50) (Lit.)

Container closing machines, related equipment and auxiliary equipment (Sec. IV).

39. U.S. v. Continental Can Co., Inc. (N.D. Cal. No. 26346; 6/26/50)

Container closing machines, related equipment and auxiliary equipment (Sec. IV).

40. U.S. v. The Textile Machine Works (S.D. N.Y. No. 43-671; 10/9/50)
Berkshire Knitting Mills

Full-fashioned hosiery or hosiery machinery (Sec. VI).

41. U.S. v. Minnesota Mining and Manufacturing Co. (D. Mass. No. 8119 11/6/50)
Behr-Manning Corp.
The Carborundum Co.
Armour & Co.
Durex Abrasives Corp.
The Durex Corp.
Coated abrasive products and any method, material, equipment or process involved in the production or manufacture of such products (Sec. V).

42. U.S. v. United States Gypsum Company (D.C. No. 8017; 5/15/51) (Lit.
Gypsum board, its processes, methods of manufacture or use (Sec VI).

43. U.S. v. Austenal Laboratories, Inc. (S.D. N.Y. No. 50-496; 6/29/51)
Preformed dental patterns, dental alloys (Sec. V and VI).

44. U.S. v. The Permutit Company (S.D. N.Y. No. 32-394; 6/29/51)
Water conditioning equipment and materials (Sec. IX).

45. U.S. v. Parke, Davis & Co. (E.D. Mich. S.D. No. 8940; 9/6/51)
Eli Lilly and Company
Manufacture and filling of capsules (Sec. VI and VII).

46. U.S. v. Mager and Gougelman, Inc. (N.D. Ill. No. 49C1028; 2/15/52)
Plastic artificial eyes (Sec. VIII and IX).

47. U.S. v. The Liquid Carbonic Corp. (E.D. N.Y. No. 9479; 3/7/52)
Air Reduction Company
Pure Carbonic, Inc.
Wyandotte Chemicals Corp.
International Carbonic Engineering Co.
CO_2 or dry ice or both (Sec. XI).

48. U.S. v. Besser Manufacturing Company (E.D. Mich. No. 8144; 7/20/52) (Lit.)
Sterns Manufacturing Co., Inc.
Concrete block making machines (Sec. VII).

49. U.S. v. Imperial Chemical Industries, Ltd. (S.D. N.Y. No. 24-13; 7/30/52) (Lit.)
E. I. du Pont de Nemours and Co., Inc.
Chemical products, common chemical products and sporting ammunition (Sec. IX).

50. U.S. v. The Dayco Company (S.D. N.Y. No. 54-357; 12/24/52)
Plain knit elastic top hosiery and plain knit elastic top hosiery machinery (Sec. V).

51. U.S. v. United Shoe Machinery Corp. (D. Mass. No. 7198; 2/18/53) (Lit.)
Shoe making machinery and shoe supplies (Sec. 12).

52. U.S. v. Westinghouse Electric & Mfg. Co. (D. N.J. No. 5152; 6/1/53)
Westinghouse Electric International Co.
Electrical equipment (Sec. V).

53. U.S. v. Telescope Carts, Inc. (W.D. Mo. No. 6935; 9/24/53)
Folding Carrier Corp.
Telescope cart (Sec. IV).

54. U.S. v. General Instrument Corp. (D. N.J. No. 8580; 9/30/53) (Lit.)
Radio Condenser Co.
Variable Condenser Corp.
Variable condensers (Sec. X).

55. U.S. v. General Electric Co. (D. N.J. No. 4575; 10/6/53)
Electrical equipment (Sec. VI).

56. U.S. v. Bendix Aviation Corp. (S.D. N.Y. No. 44-284; 10/7/53)
Hydraulic Brake Co.
Bendix-Westinghouse Automotive Air Brake Co.
Wagner Electric Corp.
Hydraulic braking systems (Sec. IV first judgment, Sec. V second judgment, and Sec. VI amended consent decree).

57. U.S. v. General Electric Co. (D. N.J. No. 1364; 10/8/53) (Lit.)
International General Electric Co., Inc.
Sylvania Electric Products, Inc.
n. v. Philips' Gloeilampenfabrieken
Consolidated Electric Lamp Co.
Chicago Miniature Lamp Works
Tung-Sol Electric Co.
Incandescent lamps, lamp machinery (Sec. V).

58. U.S. v. Switzer Bros., Inc. (N.D. Cal. No. 29800; 10/22/53)
Daylight fluorescent materials and devices (Sec. VI and VII).

59. U.S. v. Bearing Distributors Co. (W.D. Mo. No. 6895; 10/22/53)
Cab-Ette Co., Inc.
Fort Dodge Tent and Awning Co.
Tractor cabs (Sec. IV).

60. U.S. v. Servel, Inc. (E.D. Pa. No. 11036; 1/18/54)
Absorption refrigerating units (Sec. IV).

61. U.S. v. Cincinnati Milling Machine Co. (E.D. Mich. S.D. No. 13401 4/19/54)
Kearney & Trecker Corp.
Cincinnati Grinders, Inc.

Milling machines (Sec. V).

62. U.S. v. United States Rubber Co. (S.D. N.Y. No. 50-564; 5/28/54)
Dunlop Rubber Co., Ltd.
International Latex Process, Ltd.

Natural latex, latex products and thread products (Sec. IX).

63. U.S. v. General Electric Co. (D. N.J. No. 2590; 6/30/54)
Westinghouse Electric Corp.

Lamps (Sec. V).

64. U.S. v. Hunter Douglas Corp. (S.D. Cal. C.D. No. 13230; 6/30/54)

Venetian blinds (Sec. V).

65. U.S. v. Food Machinery and Chemical Corp. (N.D. Cal. S.D. No. 20308 8/9/54)

Pacific Machinery Company

Peach pitting machinery (Sec. V).

66. U.S. v. Pittsburgh Crushed Steel Co. (N.D. Ohio E.D. No. 2812 11/13/54)
The Globe Steel Abrasive Co.
Steel Shot and Grit Company, Inc.
The American Steel Abrasives Company
Steel Shot Producers, Inc.
Clayton-Sherman Abrasives Company
Steelblast Abrasives Company
The National Metal Abrasive Company
Western Metal Abrasives
The Philadelphia Steel Abrasive Co.
The Cleveland Metal Abrasive Company
American Wheelabrator & Equipment Corp.
Pangborn Corporation

Metal abrasives (Sec. XIII).

67. U.S. v. Eastman Kodak Company (W.D. N.Y. No. 6450; 12/21/54)

Processing of color film and equipment necessary therefor (Sec. VI).

68. U.S. v. General Railway Signal Co. (W.D. N.Y. No. 5237; 3/15/55)
Westinghouse Air Brake Co.
Western Railroad Supply Co.

Highway crossing gates and signal operating mechanisms (Sec. IX).

69. U.S. v. Magcobar, Inc. (S.D. Cal. C.D. No. 13460 BH; 4/6/55; Kobe, Inc.

Hydraulic oil well pumps (Sec. IX).

70. U.S. v. Kelsey-Hayes Wheel Co. (E.D. Mich. S.D. No. 10655; 7/1/55)
The Budd Company
Motor Wheel Corp.

Metal wheels (Sec. IV).

71. U.S. v. New Wrinkle, Inc. (S.D. Ohio W.D. No. 1000; 9/27/55)
Kay and Ess Company

Wrinkle finish enamels, varnishes and paints (Sec. VIII).

72. U.S. v. American Steel Foundries (N.D. Ohio E.D. No. 32140; 9/30/55)
The Buckeye Steel Castings Co.
The Symington-Gould Corp.
Scullin Steel Co.
Foundries Export Company, Inc.

Side frames and bolsters (Sec. VI and VIII).

73. U.S. v. New Wrinkle, Inc. (S.D. Ohio W.D. No. 1000; 10/27/55)

Wrinkle finish enamels, varnishes and paints (Sec. VI and VII).

74. U.S. v. Western Electric Co. (D. N.J. No. 17149; 1/24/56)
American Telephone & Telegraph Co.

Communications services and equipment (Sec. X).

75. U.S. v. I.B.M. Corp. (S.D. N.Y. No. 72-344; 1/25/56)

Tabulating cards and tabulating card machinery, tabulating machines and systems, electronic data processing machines and systems (Sec. XI).

76. U.S. v. General Shoe Corp. (M.D. Tenn. No. 2001; 2/17/56)

Shoe manufacturing processes (Sec. VIII).

77. U.S. v. Michigan Tool Co. (E.D. Mich. No. 12905; 2/28/56)
The Fellows Gear Shaper Co.
National Broach & Machine Co.

Gear finishing and cutting machines (Sec. V).

78. U.S. v. International Cigar Machinery Corp. (S.D. N.Y. No. 111-28; 7/25/56)
American Machine and Forwarding Co.

Cigar-making machinery (Sec. IV).

79. U.S. v. Robertshaw-Fulton Controls Company (W.D. Pa. No. 14745; 1/8/57)
Wilcolator Co.

Temperature controls (Sec. V).

80. U.S. v. Pitney-Bowes, Inc. (D. Conn. No. 7610; 1/9/57)

Postage meter machines (Sec. IV).